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Attorneys for Plaintiffs  
 SEBASTIAN DEFRANCESO,  
 SHERYL MIFSUD, and PAUL MIFSUD

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

SEBASTIAN DEFRANCESCO,

Plaintiff,

v.

CHATEAU MASSON, LLC; and  
 DOES 1-25, Inclusive,

Defendants.

Case No. C04-4834 JW

**CONSENT DECREE AND ORDER**

CHATEAU MASSON, LLC,

Third Party  
 Plaintiff,

v.

BILL GRAHAM PRESENTS, INC.,  
 and DOES 26-50, inclusive.

Third Party  
 Defendants.

Case No. C05-1400 JW

SHERYL MIFSUD and PAUL MIFSUD

Plaintiffs,

v.

CHATEAU MASSON, LLC; and  
 DOES 1-25, Inclusive,

Defendants.

1 CHATEAU MASSON, LLC,  
2 Third Party  
3 Plaintiff,

4 v.

5 BILL GRAHAM ENTERPRISES,  
6 INC., and DOES 26-50,  
7 Inclusive.

8 Third Party  
9 Defendants.  
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CONSENT DECREE AND ORDER

1. On November 11, 2004, plaintiff SEBASTIAN DEFRANCESCO filed the action entitled DeFrancesco v. Chateau Masson, LLC (Case No. 04-4834 JW) against Chateau Masson, LLC ("Chateau Masson"). On April 6, 2005, plaintiffs PAUL MIFSUD and SHERYL MIFSUD filed the action entitled Mifsud v. Chateau Masson, LLC (Case No. 05-1400 JW) against Chateau Masson. The two actions shall be referred to, collectively, as the Actions, and the plaintiffs in the Actions shall be referred to, collectively, as the Plaintiffs.

2. In the Actions, the Plaintiffs filed claims to enforce provisions of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. 12101 et seq., and California civil rights laws against Chateau Masson. Plaintiffs have specifically alleged that Chateau Masson violated Title III of the ADA, sections 51, 52, 54.1, and 55 of the California Civil Code, and sections 19955 et seq., of the California Health and Safety Code by failing to provide full and equal access to the facility known as the Mountain Winery located in the City of Saratoga, County of Santa Clara, California, and related facilities, including accessible parking, an accessible entrance into the concert stadium, accessible seating, and accessible restroom facilities when plaintiffs allegedly attended public events at the Mountain Winery.

3. On June 9, 2005, in DeFrancesco v. Chateau Masson, LLC (Case No. 04-4834 JW), Chateau Masson filed a third party complaint against Bill Graham Presents, Inc. ("BGP"). On May 13, 2005, in Mifsud v. Chateau Masson, LLC (Case No. 05-1400 JW),

1 Chateau Masson filed a third party complaint against Bill Graham  
2 Enterprises, Inc. The two third party complaints shall be  
3 referred to, collectively, as the "Third Party Complaints."

4 4. Chateau Masson denies Plaintiffs' allegations in the  
5 Actions and, by entering into this Consent Decree and Order, does  
6 not admit liability. Bill Graham Presents, Inc., and Bill Graham  
7 Enterprises, Inc. also deny Plaintiffs' allegations in the  
8 Actions, as well as Chateau Masson's allegations in the Third  
9 Party Complaints, and by entering into this Consent Decree and  
10 Order, do not admit liability. The parties hereby enter into  
11 this Consent Decree and Order for the purpose of resolving  
12 Plaintiffs' claims against Chateau Masson without the need for  
13 protracted litigation, and without the admission of any  
14 liability.

15 **JURISDICTION:**

16 5. The parties agree that the Court has jurisdiction of  
17 this matter pursuant to 28 U.S.C. §1331 for violations of the  
18 Americans with Disabilities Act of 1990, 42 U.S.C. 12101 *et seq.*  
19 and pursuant to pendent jurisdiction for violations of California  
20 Health & Safety Code §19955 *et seq.*, including §19959; Title 24  
21 California Code of Regulations; and California Civil Code 51, 52,  
22 54; 54.1; §54.3; and 55.

23 6. In order to avoid the costs, expense, and uncertainty  
24 of protracted litigation, plaintiffs, Chateau Masson, Bill Graham  
25 Presents, Inc. and Bill Graham Enterprises, Inc. agree to entry  
26 of this Consent Decree and Order to resolve all claims that were  
27 raised in or could have been raised in the Actions by Plaintiffs,  
28 including but not limited to all claims for injunctive relief,

1 damages, attorney fees, litigation expenses and costs.  
2 Accordingly, they agree to the entry of this Order without trial  
3 or further adjudication of any issues of fact or law concerning  
4 those claims.

5 WHEREFORE, the parties hereby agree and stipulate to the  
6 Court's entry of this Consent Decree and Order, which provides as  
7 follows:

8 **SETTLEMENT OF CLAIMS FOR INJUNCTIVE RELIEF:**

9 7. This Order shall be a full, complete and final  
10 disposition and settlement of all of Plaintiffs' claims against  
11 Chateau Masson, Bill Graham Enterprises, Inc. and Bill Graham  
12 Presents, Inc. The parties agree that there has been no  
13 admission or finding of liability or violation of the ADA and/or  
14 California civil rights laws, and this Consent Decree and Order  
15 should not be construed as such.

16 8. Chateau Masson agrees to undertake the corrective work  
17 at the Mountain Winery as detailed in Attachment A, and Bill  
18 Graham Enterprises, Inc. agrees to modify its policies and  
19 practices as detailed in Attachment A. Attachment A is  
20 incorporated by reference herein as if fully set forth in this  
21 document. Plaintiffs acknowledge and agree that, following  
22 completion of the work specified in Attachment A, Chateau Masson  
23 may (in compliance with the California Code of Regulations, Title  
24 24, and the ADA) further alter, modify, demolish, rebuild and/or  
25 renovate the facilities in which it is performing the work  
26 specified in Attachment A, including as part of an anticipated  
27 renovation project. Nothing in this Consent Decree is intended  
28 to modify, limit, interfere with or otherwise affect Chateau

1 Masson's ability, right and/or entitlement to further alter,  
2 modify, demolish, rebuild and/or renovate the facilities.

3 **DAMAGES, ATTORNEY FEES, LITIGATION EXPENSES, AND COSTS:**

4 9. The parties have agreed to a full and final resolution  
5 of plaintiffs' claims for monetary relief, damages, attorney  
6 fees, litigation expenses and costs. Chateau Masson shall pay to  
7 plaintiffs Sebastian DeFrancesco, Paul Mifsud, and Sheryl Mifsud  
8 the amount of Thirty-Four Thousand Dollars and No/100  
9 (\$34,000.00) each as full and final resolution of plaintiffs'  
10 claims for all statutory, actual, and personal injury damages,  
11 including general, compensatory, and special damages. Chateau  
12 Masson shall also pay the amount of One Hundred Five Thousand Six  
13 Hundred Ninety Dollars and No/100 (\$105,690) as full and final  
14 resolution of plaintiffs' claims for attorney fees, litigation  
15 expenses and costs. Payment shall be made by one check, in the  
16 total amount of Two Hundred Seven Thousand Six Hundred Ninety  
17 Dollars and No/100 (\$207,690), made payable to "Paul L. Rein in  
18 trust for Sebastian DeFrancesco, Paul Mifsud and Sheryl Mifsud."  
19 Payment shall be made within fifteen (15) days of the parties'  
20 full execution of the Consent Decree. However, Plaintiffs'  
21 attorneys shall hold said payment in their client trust account,  
22 and shall not distribute or disburse such payment to Plaintiffs  
23 or themselves unless and until the Court enters the Consent  
24 Decree.

25 **ENTIRE CONSENT DECREE AND ORDER:**

26 10. This Consent Decree and Order, and any appendices  
27 attached, constitute the entire agreement between the parties on  
28 the matters described herein, and no other statement, promise, or

1 agreement, either written or oral, made by any of the parties or  
2 agents of any of the parties, that is not contained in this  
3 written Consent Decree and Order, shall be enforceable regarding  
4 the matters described herein.

5 **CONSENT DECREE AND ORDER BINDING ON PARTIES AND SUCCESSORS IN**  
6 **INTEREST:**

7 11. This Consent Decree and Order shall be binding on  
8 plaintiffs Sebastian Defrancesco, Sheryl Mifsud, Paul Mifsud, on  
9 defendant Chateau Masson LLC, and on Third Party Defendants Bill  
10 Graham Enterprises, Inc. and Bill Graham Presents, Inc., and on  
11 any of their successors in interest. The parties have a duty to  
12 so notify all such successors in interest of the existence and  
13 terms of this Consent Decree and Order during the period of the  
14 Court's jurisdiction of this Consent Decree.

15 **TERM OF THE CONSENT DECREE AND ORDER:**

16 12. The Court shall retain jurisdiction over the Complaints  
17 and Third Party Complaints. The Court shall retain jurisdiction  
18 of the Complaints, including to enforce provisions of this Order,  
19 for a period of twenty-four months after the date of entry of  
20 this Consent Decree, or until the injunctive relief contemplated  
21 by this Order is completed, whichever occurs later.

22 **SEVERABILITY:**

23 13. If any term of this Consent Decree and Order is  
24 determined by any court to be unenforceable, the other terms of  
25 this Consent Decree and Order shall nonetheless remain in full  
26 force and effect.

1 **MUTUAL RELEASE AND WAIVER OF CIVIL CODE SECTION 1542:**

2 14. Releases By Plaintiffs: Plaintiffs, on behalf of  
3 themselves, their respective agents, representatives,  
4 predecessors, successors, heirs, partners, attorneys, and  
5 assigns, release and forever discharge Chateau Masson, LLC, Bill  
6 Graham Enterprises, Inc. and Bill Graham Presents, Inc., and each  
7 of them, and each of their owners, members, officers, directors,  
8 shareholders, subsidiaries, joint venturers, stockholders,  
9 partners, parent companies, employees, agents, attorneys,  
10 insurance carriers, heirs, predecessors, and representatives, of  
11 and from any and all causes of action, suits, accounts, claims,  
12 losses, demands, damages, debts, liabilities, actions, causes of  
13 action, costs and expenses (including, without limitation,  
14 reasonable attorneys' fees) of any kind and nature whatsoever,  
15 whether now known or unknown, anticipated or unanticipated, and  
16 howsoever arising or accruing (collectively, "Claims") that  
17 relate in any way to or arise from or in connection with the  
18 Actions.

19 15. Future Claims: Plaintiffs acknowledge and agree that,  
20 prior to May 1, 2007, they will not assert any Claims against  
21 Chateau Masson, Bill Graham Presents, Inc., or Bill Graham  
22 Enterprises, Inc. related to, or otherwise seek to require them  
23 to perform, any injunctive relief other than the injunctive  
24 relief specified in Attachment A ("Future Claims"). If, after  
25 May 1, 2007, Plaintiffs, or any of them, seek to assert Future  
26 Claims against Chateau Masson, Bill Graham Presents, Inc., or  
27 Bill Graham Enterprises, Inc. for injunctive relief other than  
28 the injunctive relief specified in Attachment A, plaintiffs will



1 first provide notice to Chateau Masson, Bill Graham Presents,  
2 Inc., and/or Bill Graham Enterprises, Inc. (pursuant to paragraph  
3 21 of the Consent Decree and Order) of their intention to assert  
4 such Future Claims. Any Plaintiff asserting a Future Claim, as  
5 defined in this paragraph 15, shall provide the notice required  
6 by this paragraph 15 at least thirty (30) days before Plaintiffs,  
7 or any of them, assert any such Future Claims. During the thirty-  
8 day period commencing with the giving of any notice under this  
9 paragraph 15, any Plaintiff asserting a Future Claim shall meet  
10 and confer with attorneys of record in the Actions for Chateau  
11 Masson, Bill Graham Presents, Inc., and/or Bill Graham  
12 Enterprises, Inc. to attempt to resolve such Future Claim(s)  
13 informally.

14       16. Releases by Chateau Masson, Bill Graham Enterprises,  
15 Inc. and Bill Graham Presents, Inc.: Chateau Masson, LLC, Bill  
16 Graham Enterprises, Inc. and Bill Graham Presents, Inc., on  
17 behalf of themselves, their owners, members, officers, directors,  
18 shareholders, subsidiaries, joint venturers, stockholders,  
19 partners, parent companies, employees, agents, attorneys,  
20 insurance carriers, heirs, predecessors, and representatives,  
21 release and forever discharge Plaintiffs, and each of them, and  
22 each of their agents, representatives, predecessors, successors,  
23 heirs, partners, and assigns, of and from any and all Claims that  
24 relate in anyway to or arise from or in connection with the  
25 Actions. Nothing in this release or in this Consent Decree  
26 releases any Claims that (1) Chateau Masson, LLC has or may have  
27 against Bill Graham Enterprises, Inc. and Bill Graham Presents,  
28 Inc., or (2) Bill Graham Enterprises, Inc. or Bill Graham

1 Presents, Inc. has or may have against Chateau Masson. By  
2 entering into this Consent Decree, Chateau Masson does not  
3 dismiss the Third Party Complaints, which continue to remain in  
4 full force and effect.

5 17. Waiver of California Civil Code Section 1542. The  
6 parties to the Consent Decree each acknowledge that he, she or it  
7 has been informed by his, her or its attorney of, and is familiar  
8 with, the provisions of California Civil Code Section 1542, which  
9 provides as follows:

10 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS  
11 WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT  
12 TO EXIST IN HIS OR HER FAVOR AT THE TIME OF  
13 EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM  
OR HER MUST HAVE MATERIALLY AFFECTED HIS OR  
HER SETTLEMENT WITH THE DEBTOR.

14 The parties to this Consent Decree, being aware of said  
15 Section, each hereby expressly waive and relinquish all rights  
16 and benefits each of them has or may have or have thereunder, as  
17 well as under any other statutes or common law principles of  
18 similar effect, with respect to the Claims released hereunder.  
19 The parties to this Consent Decree each acknowledge that they are  
20 aware that each of them may hereafter discover facts different  
21 from or in addition to those now known or believed to be true  
22 with respect to the Claims herein released, and agree that these  
23 releases shall be and remain in effect in all respects as  
24 complete, general and mutual releases as to the matters to be  
25 released, notwithstanding any such different and additional  
26 facts.

27 18. Representation and Warranties Re Releases. The parties  
28 hereby represent and warrant to each other that no Claims

released by each of them hereunder have been conveyed, assigned or otherwise transferred to any third party.

19. Limitation on Releases. The releases set forth in Paragraphs 14 through 17 shall not release any party to this Consent Decree from its obligations pursuant to this Consent Decree.

**SIGNATORIES BIND PARTIES:**

20. Signatories on behalf of the parties represent that they are authorized to bind the parties to this Consent Decree and Order.

**NOTICES:**

21. Any notice required or permitted to be given under the provisions of this Consent Decree and Order shall be delivered to the address(es) of the parties specified below (or to such other address(es) that any party to the Consent Decree may provide in writing following entry of this Consent Decree):

Notices to Plaintiffs:

Paul Rein  
Law Offices of Paul Rein  
200 Lakeside Drive, Suite A  
Oakland, CA 94612  
Telephone No. (510) 832-5001  
Telecopier No. (510) 832-4787

Notices to Chateau Masson:

Bernard S. Greenfield  
McGrane, Greenfield, Hannon & Harrington, LLP  
40 South Market St., 2nd Floor  
San Jose, CA 95113  
Telephone: (408) 995-5600  
Facsimile: (408) 995-0308

1 Clifford E. Yin  
2 Coblentz, Patch, Duffy & Bass LLP  
3 One Ferry Building, Suite 200  
4 San Francisco, California 94111  
5 Telephone: (415) 391-4800  
6 Facsimile: (415) 989-1663

7 With a copy to:

8 William Hirschman  
9 Chateau Masson LLC  
10 15585 Los Gatos Boulevard  
11 Los Gatos, CA 95032-2503  
12 Telephone: (408) 402-9877  
13 Facsimile: (408) 402-0607

14 Notices to Bill Graham Enterprises, Inc. and/or Bill Graham  
15 Presents, Inc.

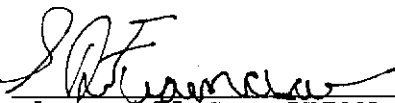
16 Valerie Sharpe  
17 Littler Mendelson  
18 650 California Street, 20th Floor  
19 San Francisco, CA 94108  
20 Telephone: (415) 433-1940  
21 Facsimile: (415) 399-8490

22 With a copy to:

23 Sharon Sanders  
24 Legal Department  
25 Clear Channel Entertainment  
26 2000 West Loop South, Suite 130  
27 Houston, TX 77027

28 Lee Smith  
President  
Bill Graham Enterprises, Inc.  
[insert address]

Dated: August 31, 2005

  
Plaintiff SEBASTIAN DEFRANCESCO

Dated: August \_\_, 2005

Plaintiff SHERYL MIFSUD

1 Dated: August \_\_, 2005

2

3

Plaintiff SHERYL MIFSUD

4 Dated: August \_\_, 2005

5

Plaintiff PAUL MIFSUD

6

7 Dated: August 31, 2005

8

  
Defendant CHATEAU MASSON LLC

9

10 Dated: August \_\_, 2005

11

Third-Party Defendant  
BILL GRAHAM ENTERPRISES, INC.

12

13 Dated: August \_\_, 2005

14

Third-Party Defendant  
BILL GRAHAM PRESENTS, INC.

15

16 APPROVED AS TO FORM:

17

18 Dated: August \_\_, 2005

19

PAUL L. REIN  
PATRICIA BARBOSA  
JULIE MCLEAN  
LAW OFFICES OF PAUL L. REIN

20

21

Attorneys for Plaintiffs  
SEBASTIAN DEFRANCESCO; SHERYL  
MIFSUD; PAUL MIFSUD

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1 Dated: August \_\_, 2005

2

Plaintiff SHERYL MIFSUD

3

4 Dated: August \_\_, 2005

5

Plaintiff PAUL MIFSUD

6

7

8 Dated: August \_\_, 2005

9

Defendant CREATA MASSON LLC

10

11 Dated: August 31, 2005

12

Third-Party Defendant  
BILL GRAHAM ENTERPRISES, INC.

13

14 Dated: August 31, 2005

15

Third-Party Defendant  
BILL GRAHAM PRESENTS, INC.

16

17 APPROVED AS TO FORM:

18

19 Dated: August \_\_, 2005

20

PAUL L. REIN  
PATRICIA BARBOSA  
JULIE MCLEAN  
LAW OFFICES OF PAUL L. REIN

21

22

Attorneys for Plaintiffs  
SEBASTIAN DEFRANCESCO; SHERYL  
MIFSUD; PAUL MIFSUD

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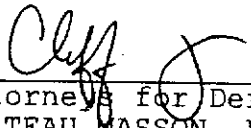
Case No. - 04-1934 JW, 05-1400 JW

CONSENT DECREE AND ORDER

1 Dated: August 31, 2005

BERNARD S. GREENFIELD  
BRIAN J. HANNON  
McGRANE, GREENFIELD, HANNON &  
HARRINGTON LLP

CLIFFORD YIN  
COBLENTZ, PATCH, DUFFY & BASS  
LLP

6  
7   
8 Attorneys for Defendant  
CHATEAU MASSON, LLC

9 Dated: August \_\_, 2005

WENDY L. TICE-WALLNER  
VALERIE SHARPE  
LITTLER MENDELSON

13 Attorneys for Third Party  
14 Defendants BILL GRAHAM PRESENTS,  
15 INC. and BILL GRAHAM  
16 ENTERPRISES, INC.

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1 Dated: August \_\_, 2005

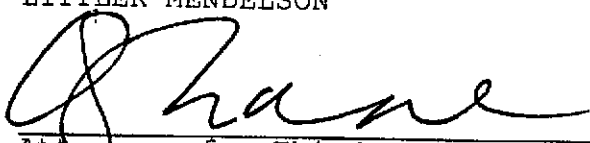
BERNARD S. GREENFIELD  
BRIAN J. HANNON  
McGRANE, GREENFIELD, HANNON &  
HARRINGTON LLP

CLIFFORD YIN  
COBLENTZ, PATCH, DUFFY & BASS  
LLP

7 Attorneys for Defendant  
8 CHATEAU MASSON, LLC

9 Dated: Sept. 7  
10 ~~August~~ \_\_, 2005

WENDY L. TICE-WALLNER  
VALERIE SHARPE  
LITTLER MENDELSON




13 Attorneys for Third Party  
14 Defendants BILL GRAHAM PRESENTS,  
15 INC. and BILL GRAHAM  
16 ENTERPRISES, INC.



ORDER

Pursuant to stipulation, and for good cause shown, **IT IS SO ORDERED.**

Dated: September 22, 2005

  
\_\_\_\_\_  
HON. JAMES WARE  
U.S. DISTRICT JUDGE

**ATTACHMENT A**

**SEBASTIAN DEFRANCESCO v. CHATEAU MASSON, LLC. et al.**  
**U.S.D.C., Northern District of California; Case No. C04-4834 JW; and**  
**SHERYL and PAUL MISFUD v. CHATEAU MASSON, LLC. et al.**  
**U.S.D.C., Northern District of California; Case No. C05-1400 JW**

For purposes of full and final settlement of the claims asserted by Plaintiffs in the two above-cited related cases, Plaintiffs Sebastian DeFrancesco, Sheryl Misfud and Paul Misfud, on the one hand, and Chateau Masson, LLC ("Chateau Masson") and Bill Graham Enterprises, Inc. ("BGE"), on the other hand, hereby agree that Chateau Masson will perform the work and modify its policies and procedures as specified below, and BGE will modify its policies and procedures as specified below. The term "Effective Date" shall mean the date upon which the Consent Decree is filed and entered, following execution by all parties and the Court.

**CHATEAU MASSON**

For the 2005 and 2006 concert seasons, Chateau Masson agrees as follows:

1. **Parking:** Chateau Masson will install a walkway in front of the designated disabled parking spaces to provide a path of travel to the shuttle pick-up area. Chateau Masson will complete the corrective work before the start of the 2006 concert season.
2. **Public restrooms:** Chateau Masson has installed two portable sanitary facilities in the main plaza area. In addition, Chateau Masson will do the following: (a) Chateau Masson will install one accessible men's toilet stall in one of the existing public restrooms in compliance with California Code of Regulations, Title 24, Part 2 and Americans with Disabilities Act Accessibility Guidelines. Chateau Masson may renovate any of the public restroom facilities it deems most appropriate. (b) Chateau Masson will install one accessible women's toilet stall in one of the existing public restrooms in compliance with California Code of Regulations, Title 24, Part 2 and Americans with Disabilities Act Accessibility Guidelines, or will improve access to the restroom trailer. If Chateau Masson chooses to improve access to the restroom trailer, Chateau Masson may provide access via a ramp with running slopes of up to 10%, due to the existing conditions that make a fully accessible ramp infeasible. (c) Chateau Masson will install directional signage at inaccessible restroom facilities indicating the location of the accessible restroom facilities. (d) Chateau Masson will complete the corrective work before the start of the 2006 concert season.
3. **Interior Dining:** Chateau Masson will construct a ramp to enter the Chateau and provide in the Chateau at least one table that has at least 27 inches of knee clearance, which is at least 19 inches in depth. Chateau Masson will also modify its policies by reserving the accessible table for use by disabled persons until the non-accessible dining tables have been reserved or are being used. Chateau Masson will complete the above corrective work within ten (10) days of the Effective Date.
4. **Exterior Dining:** Chateau Masson will provide an accessible table in the area by the pool bar upon request. Chateau Masson will provide signage in the area by the pool bar indicating that such a table is available upon request and will provide training concerning the provision of that table. The existing ramp will be modified

to be accessible. Chateau Masson will provide a lowered portion of the plaza bar, no higher than 34" and with a width of at least 36". Chateau Masson will complete the corrective work within twenty (20) days of the Effective Date.

5. Exhibit A: Within thirty (30) calendar days of the Effective Date, Chateau Masson shall apply for a permit to undertake the work depicted in Exhibit A of this Consent Decree. Chateau Masson shall take all reasonable steps to (a) ensure that the necessary permit is issued as expediently as possible, and (b) complete that work, following issuance of the required permit, prior to the start of the 2006 Concert Season.

#### **BILL GRAHAM ENTERPRISES, INC.**

Bill Graham Enterprises, Inc. ("BGE") agrees as follows:

1. Shuttle: BGE will provide either an MAPV trailer, a Columbia BC3-L shuttle, a wheelchair accessible van or wheelchair accessible golf cart to transport disabled persons from the designated accessible parking area to the main public entrance. It will institute a policy of maintaining this shuttle service during concerts. BGE has instituted this policy modification as of August 24, 2005. For the 2006 concert season, this shuttle service shall be provided through the use of an MAPV trailer, Columbia BC3-L trailer or wheelchair accessible golf cart.

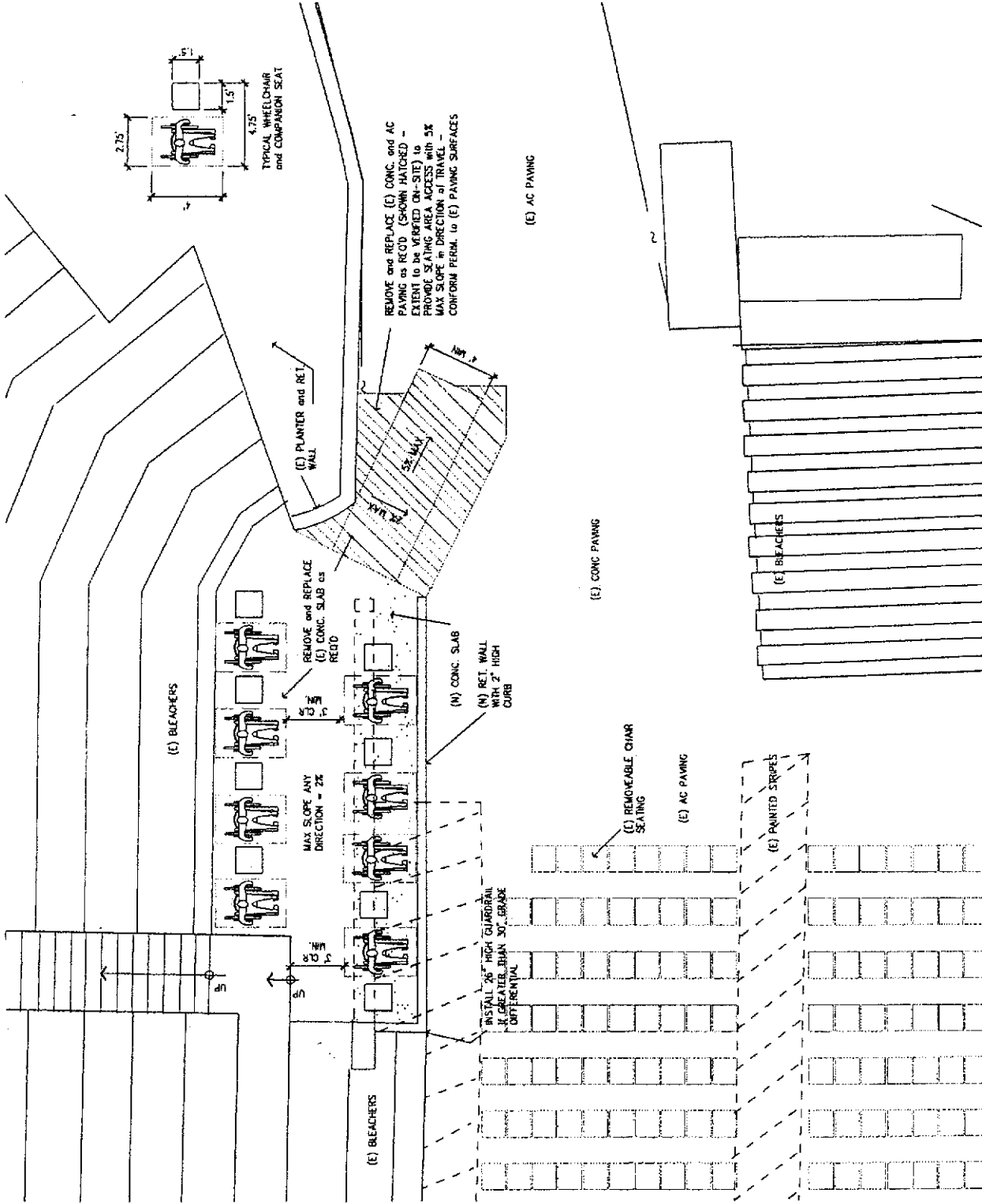
#### **CONCERT SEATING**

1. 2005 Season: For the remainder of the 2005 concert season, BGE will modify its policies and procedures to provide at BGE sponsored events the following seats: (a) 2 wheelchair accessible seats and 2 companion seats in the front row of the floor seating. BGE will choose the exact location of those seats; (b) 5 wheelchair accessible seats and 5 companion seats in the general admission bleacher area now designated as accessible (typically referred to by the parties as the "orange area"); and (c) 4 wheelchair seats and 4 companion seats in the Redwood Plaza area (collectively, the "Accessible Seating Options"). BGE will further modify its policies and procedures to offer these seating options on a first come first serve basis to those persons who purchased wheelchair accessible seats. BGE instituted these policy modifications as of August 16, 2005.
2. 2006 Season: For the 2006 concert season, following issuance of a permit, Chateau Masson will install the accessible wheelchair spaces and companion seats as shown on Exhibit A. In the event that Chateau Masson is unable to obtain a permit to do the work shown on Exhibit A, and/or during the time that Chateau Masson is waiting for permit approval or is completing the work shown on Exhibit A, BGE will continue to provide at BGE sponsored events the "Accessible Seating Options" for the 2006 concert season. Once Chateau Masson has completed the work shown on Exhibit A, BGE will modify its policies and procedures to provide at BGE sponsored events the following seats: (a) at least 8 wheelchair accessible seats and 8 companion seats in the general admission bleacher area now designated as accessible, as depicted on Exhibit A; and (b) 4 wheelchair seats and 4 companion seats in the Redwood Plaza Area.

**MEET AND CONFER**

1. At least ten (10) business days before plaintiffs seek any relief under the Consent Decree, including but not limited to by way of a motion to compel compliance with the Consent Decree, plaintiffs will provide a notice to Chateau Masson and/or BGE (pursuant to paragraph 21 of the Consent Decree) of their intention to seek such relief and will then meet and confer with Chateau Masson's attorneys and/or BGE's attorneys. In the event that the parties are unable to resolve any issues raised by plaintiffs during that meet and confer period, plaintiffs may then seek further relief from the Court under this Consent Decree.

2. In the event that Chateau Masson or BGE experience unforeseen difficulties that prevent them from completing the agreed-upon work or the agreed-upon modifications to policies and practices either at all or in the deadlines specified herein, Chateau Masson and/or BGE will (a) notify plaintiffs' counsel in writing within fifteen (15) days, (b) may seek relief from the Court from the obligations imposed in the Consent Decree and (c) may, upon a showing of good cause, obtain relief from such obligations as the Court deems appropriate.



THE MOUNTAIN WINERY PROPOSED LOWER CONCERT BOWL ADA SE

1/8" = 1'-0"

7-20-05

1 Dated: August 31, 2005

  
Plaintiff PAUL MIFSUD

2  
3  
4 Dated: August \_\_, 2005

5  
6 Defendant CHATEAU MASSON LLC

7 Dated: August \_\_, 2005

8  
9 Third-Party Defendant  
BILL GRAHAM ENTERPRISES, INC.

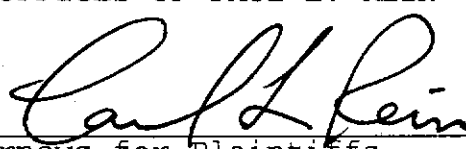
10 Dated: August \_\_, 2005

11  
12 Third-Party Defendant  
BILL GRAHAM PRESENTS, INC.

13 APPROVED AS TO FORM:

14 Dated: August 31, 2005

15 PAUL L. REIN  
16 PATRICIA BARBOSA  
17 JULIE MCLEAN  
18 LAW OFFICES OF PAUL L. REIN

  
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SEBASTIAN DEFRANCESCO; SHERYL  
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19  
20 Dated: August \_\_, 2005

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14 Notices to Bill Graham Enterprises, Inc. and/or Bill Graham  
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Dated: August \_\_, 2005

Plaintiff SEBASTIAN DEFRANCESCO

Dated: August 31, 2005

  
Plaintiff SHERYL MIESUD